



Statement of Pearle\*-Live Performance Europe

on the **social security coordination regulation and the posting of workers directive** :

a disproportionate proposal that doesn't recognise the daily reality of the live performance sector

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On 23 March EMPL Members of the European Parliament hold an exchange of views on the proposition of the revision of the Social security coordination regulation<sup>1</sup> with Marianne Thyssen, Commissioner for Employment, Social Affairs, Skills and Labour Mobility. Within the scope of the proposal, in relation to posting, the Commission aims to strengthen the administrative rules on social security coordination for posted workers. The EP EMPL Committee will also consider amendments on the proposal for revision of the Posting of workers Directive<sup>2</sup>. The aim of both proposals is to create a level playing field for mobile workers and create legal certainty for citizens when they work in another EU Member State.

As a principle, Pearle\*-Live Performance Europe adheres to the objective of the European Union to facilitate the free movement of workers and to improve the legal certainty. The live performance sector is a highly mobile sector with artists and cultural professionals touring and working across the EU, Europe and the globe.

However, **Pearle\* wishes to raise its great concerns in relation to the implications of the Commission proposal in the case of very short-term posting of less than a month.**

The impact assessment<sup>3</sup> accompanying the posting of workers proposal mentions that the portable document A1 is not required for posting in the case of less than one month and that therefore data are lacking. **This does not correspond with the daily experience of cross-border activities in the live performance sector.** Pearle\* members report that they are requested to be able to provide A1 portable documents when they go on tour with a group and perform in another Member State, even in the case a tour lasts only a few days. The organisers, that programme the performance of the touring company in their venue, festival and city, are also confronted with administrative burdens.

<sup>1</sup> [Communication amending Regulation EC/883/2004 on the coordination of social security systems and regulation EC/987/2009 laying down the procedure for Regulation EC/883/2004](#)

<sup>2</sup> [Proposal for a Directive of the European Parliament and of the Council amending Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services](#)

<sup>3</sup> [Impact Assessment](#) SWD (2016) 53 final

Pearle\* has addressed these and other specific issues in response to the consultation<sup>4</sup>, though the impact assessment does not refer to the specific issues of importance for the live performance sector, although the Commission is aware of the problems that the sector encounters in relation to mobility.

As the impact assessment, does not consider the potential impact of the proposed revised rules in the case of very short term posting, the Commission proposal does not foresee a balanced approach.

The problems for very short term posting and simultaneous employment are fully ignored, whilst they lead to significant administrative burdens, cumbersome procedures and compliance costs for the employer. In the live performance sector a touring company may easily undertake fifty performances or more outside the resident country, travelling with groups of about 10 to 100 persons (or even more). A touring company is requested to be able to submit an A1 form for the people involved in the production for each activity abroad which can be as short as one day, a few days, or up to a few weeks (but usually less than a month). In addition, the proposed revision on the posting of workers directive expects to create extremely complicated calculations regarding the remuneration by the employer of the sending state when it concerns very short-term posting ranging from a day, over a few days to less than a month.

**Pearle\* is of the opinion that this is disproportionate and regrets that the co-legislators fail to recognise the daily reality and struggle of the SMEs and micro-companies to meet with such burdensome conditions.** It goes against the objective of the present Commission on better regulation and it contradicts initiatives in other policy areas aiming to support SMEs when undertaking cross-border activities, such as in the case of the proposal for an e-services card for SMEs or the intention of the Commission in the field of VAT, such as recently asked in a public consultation on a reform of the VAT system.

**Pearle\* urges the European Parliament and the Council for very short-term posting and short-term simultaneous employment of less than a month to be derogated from the administrative obligations and legal conditions when it concerns employment in another Member State.**

For years, the sector is calling for specific attention to the administrative burdens faced by the specific group and category of highly mobile artists and cultural workers. This has been addressed since the European Union held a European year on mobility of workers in 2006 at many occasions and through studies and surveys. As the sector<sup>5</sup> is characterised by SMEs and micro-companies it also is characterised by a large number of non-profit organisations, which often depend on public support, and do not have the financial resources to outsource the work to deal with the administrative handling, but rather must undertake all the work by a small staff.

Pearle\*, which represents through its members associations more than 10 000 music and performing arts organisations, hopes that the European Institutions will take the specific situation of very short-term posting into consideration to achieve a workable and balanced situation fit for the daily realities of SMEs, micro-companies and non-profit organisations.

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<sup>4</sup> Response of Pearle\* to online consultation submitted on 6 October 2015 and [additional comments](#) sent by separate mail to the functional mailbox of the Commission on the consultation [EMPL-CONSULTATION-SOCIAL-SECURITY@EC.EUROPA.EU](mailto:EMPL-CONSULTATION-SOCIAL-SECURITY@EC.EUROPA.EU)

<sup>5</sup> For example, touring by an orchestra, music ensemble, a band, dance company, theatre company, puppet theatre, mime, circus etcetera. For example, the organiser programming the event: promoter, concert hall, theatre, venue, festival, etcetera.